IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4235 OF 2006

Jagdip @ Ganesh Vithal Sawant .. ..Applicant

Versus

The State of Maharashtra .. ..Respondent

Mr.R.D.Suryawanshi for applicant

Mr.P.A.Pol, APP for State

CORAM : S.C.DHARMADHIKARI,J.

DATE : 29TH NOVEMBER, 2006

P.C.:

1. Heard Shri Suryawanshi appearing for the applicant and learned APP for the State. Apart from the fact that the ground of parity being not available to the applicant, additionally, his application is rejected on the ground that he may abscond and thereafter it would became impossible to trace him at the trial.

2. Mr. Suryawanshi states that applicant has been arrested on 24.1.2006 by Mira Road Police Station in

C.R.No.371/2006 for offences punishable under Sections 399 and 402 of Indian Penal Code on the basis that he and four others were preparing to commit dacoity at Mira Road. He points out that co-accused Ali Riyasat Ali Saleman is enlarged on bail. He submits that there are recoveries of incriminating articles from this accused as well. Merely because a chopper is seized and recovered from the present applicant does not mean that he is not entitled to parity. That apart, Shri Suryawanshi submits that the learned Judge was inclined to grant bail but it was pointed out that the applicant may abscond and would not be available for trial. Mr.Suryawanshi states that the mother of the applicant is present in the court, she states that she is residing at the address mentioned in the cause title and that is a permanent structure which belongs to her. The accused was residing with her prior to his arrest. She states that she has documents to prove her right, title and interest in these premises.

3. The learned APP submits that such incidents are increasing in Thane District. It is clear from a perusal of the order of the trial court that the applicant and others had made all preparations. Similarly, such accused have no roots and frequently abscond upon their release on

bail. There is a likelihood of their repeating such acts as well.

4. In my view, mere apprehension expressed would not be enough. The co-accused has been arrested and there are recoveries of Nylon rope and Chilli Powder from him. Merely because a chopper is recovered at the instance of the present applicant on that basis the relief cannot be denied to him. More so, when I am inclined to impose stringent conditions. Hence, the following order would be meet the ends of justice.

O R D E R :

(i) The applicant arrested in connection with C.R.No.I-371 of 2006 registered with Mira Road Police Station shall be enlarged in the sum of Rs.15,000/= each with one or two local sureties in the like amount.

(ii) The applicants shall report to Mira Road Police Station, twice in a week till the charge sheet is filed and thereafter subject to such

directions as are issued by the trial court.

(iii) The order of bail will be given effect only after the Applicant furnishes to the investigating officer the details about his place of residence and addresses where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of the trial without prior intimation to the investigating office.

(iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trail may be a ground for cancellation of bail.

(vi) Any observation made in this order shall

not be construed as any finding or any expression of opinion of the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

(viii) Parties to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J.)